

13 Jan 2017

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CLACKAMAS

MELISSA FIRESIDE,

Plaintiff,

v.

COLLEGE FOR AMERICA, SOUTHERN  
NEW HAMPSHIRE UNIVERSITY, a New  
Hampshire non-profit educational institution,

Defendant.

Case No. 17CV00111

SUMMONS

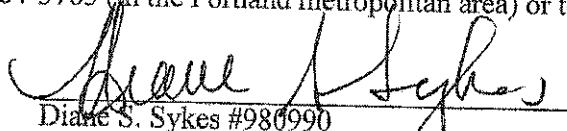
To: President Paul J. LaBlanc, Southern New Hampshire University, 2500 North River Road,  
Manchester NH 03106-1045

You are hereby required to appear and defend the Complaint filed against you in this case within 30 days from the date of the service of this summons upon you. If you fail to appear and defend, the plaintiff will apply to the court for the relief demanded in the Complaint.

NOTICE TO DEFENDANT:  
READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal document called a "motion," or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service on the plaintiff.

If you have questions, you should see an attorney immediately. If you need help in finding an attorney, you may contact the Oregon State Bar's Lawyer Referral Service online at [www.oregonstatebar.org](http://www.oregonstatebar.org) or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at (800) 452-7636.

  
Diane S. Sykes #980990  
Trial Attorney for Plaintiff Melissa Fireside

Page 1-SUMMONS

Diane S. Sykes, Attorney at Law, P.C.  
5911 S.E. 43<sup>rd</sup> Avenue  
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v.

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NEW HAMPSHIRE UNIVERSITY,** a New  
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Defendant.

Case No.

**COMPLAINT**

(Pregnancy/Sex Discrimination-Refusal to Hire;  
ORS 659A.030(1)(a); Pregnancy/Sex  
Discrimination, ORS 659A.030(1)(b);  
Pregnancy/Sex Retaliation, ORS  
659A.030(1)(f); Pregnancy/Sex Discrimination-  
Aiding and Abetting, ORS 659A.030(1)(g); and  
Discrimination/Retaliation for Bringing Civil  
Proceeding, ORS 659A.230)

Amount Claimed: \$1,559,715.00

**Jury Trial Requested**

**(Not Subject to Mandatory Arbitration)**

(Fee Authority ORS 21.135)

Plaintiff demands a jury trial and alleges:

1.

Plaintiff, Melissa Fireside, is, and at all material times was, a female resident of  
Clackamas County, State of Oregon. At all relevant times to this complaint, plaintiff Fireside  
was an employee, pursuant to ORS 659A.001(3).

Page 1 – **COMPLAINT**

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2.

Defendant Southern New Hampshire University ("SNHU") is an out-of-state non-profit education institution with a principal place of business located at 2500 North River Road, Manchester, NH 03106-1045. SNHU offers an internet-based distance learning program and has employees who work remotely from other states, including Oregon. SNHU is an "employer" pursuant to ORS 659A.001(4)(a).

3.

On or about June 3, 2016, plaintiff filed a Charge of Unlawful Discrimination with the U.S. Equal Employment Opportunities Commission ("EEOC"). On August 19, 2016, plaintiff filed an amended complaint with EEOC to include additional allegations of discrimination. EEOC Case No. 551-2016-01158. The administrative complaints were dually filed with the Oregon Bureau of Labor and Industries ("BOLI") and the New Hampshire Commission for Human Rights ("NHCHR"). BOLI Case No. EEEMSM160408-90859. On October 6, 2016, EEOC issued a 90-day Notice of Dismissal and Notice of Right to Suit and, on October 17, 2016, BOLI issued a Notice of Right to File Suit.

**FIRST CLAIM FOR RELIEF**  
**Pregnancy/Sex Discrimination-Refusal to Hire, ORS 659A.030(1)(a)**

4.

Plaintiff incorporates by reference the allegations in paragraphs 1-3 above.

5.

On or about September 14, 2015, plaintiff Melissa Fireside ("Fireside") was hired by the College for America ("CFA"), a division of SNHU, to work remotely as a part-time Faculty

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4 which plaintiff was qualified, in the Psychology Department.

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6 On December 19, 2015, plaintiff applied for the Team Lead Position in defendant's  
7 Psychology Department.

8 8.

9 On January 14, 2016, plaintiff participated in a second round of telephone interviews  
10 with Director of Operations Julie-anne Edwards and discussed the position and start date.

11 9.

12 After plaintiff disclosed her pregnancy and delivery date, for the first time, Edwards  
13 asked plaintiff how much time she planned to take off for maternity leave and plaintiff responded  
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16 Edwards immediately informed plaintiff that there would be other positions in the future  
17 because plaintiff's due date interfered with the position start date and training period for the  
18 position.

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20 Edwards conveyed to plaintiff that while defendants had made exceptions to start times in  
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12.

Edwards stated that she would note plaintiff's inability to perform in the position to the hiring committee.

13.

On or about January 20, 2016, Director of Operations Julie-anne Edwards called plaintiff to inform her that she was not selected for the Team Lead position.

14.

In February 2016, defendants SNHU hired a Team Lead position who was not pregnant.

15.

On or about April 25, 2016, plaintiff applied for a full-time Faculty position in the same department but was denied an interview and received a denial letter from defendant SNHU's Human Resources Department on August 1, 2016.

16.

In violation of ORS 659A.030(1)(a) and ORS 659A.029, defendants refused to hire or employ plaintiff due to sex, which includes pregnancy, childbirth and related medical conditions or occurrences.

17.

Pursuant to ORS 659A.885(1), plaintiff Fireside requests economic damages, including back pay, front pay, lost benefits and out of pocket expenses in the amount of \$1,259,715.00, plus interest.

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1 18.

2 Pursuant to ORS 659A.885(3)(a), plaintiff Fireside requests compensatory damages in  
3 the amount of \$300,000.00, plus interest, for pain and suffering.

4 19.

5 Plaintiff requests injunctive relief, pursuant to ORS 659A.885(1), to require that  
6 defendant offer plaintiff an on-line faculty position and to restrain defendants SNHU from  
7 engaging in existing and future violations of ORS Ch. 659A, employment laws and as the court  
8 otherwise directs.

9 20.

10 Plaintiff hired legal counsel to prosecute her claims and is entitled to reasonable  
11 attorneys' fees and costs incurred, including expert witness fees, pursuant to ORS 659A.885(1).

12 21.

13  
14 Plaintiff hereby gives notice of intent to amend the complaint to seek punitive damages.

15 **SECOND CLAIM FOR RELIEF**  
16 **Pregnancy/Sex Discrimination-Discrimination, ORS 659A.030(1)(b)**

17 22.

18 Plaintiff incorporates by reference the allegations in paragraphs 1-15 above.

19 23.

20 Plaintiff, who works part-time, sought a full time position with defendant SNHU to  
21 increase her income and still perform her job functions from Oregon.

22 ///

23 ///

24 ///

25 Page 5– COMPLAINT

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24.

In violation of ORS 659A.030(1)(b), defendant SNHU discriminated against plaintiff in compensation, terms, conditions or privileges of employment on the basis of sex and pregnancy.

25.

Pursuant to ORS 659A.885(1), plaintiff Fireside requests economic damages, including back pay, front pay, lost benefits and out of pocket expenses in the amount of \$1,259,715.00, plus interest.

26.

Pursuant to ORS 659A.885(3)(a), plaintiff Fireside requests compensatory damages in the amount of \$300,000.00, plus interest, for pain and suffering.

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Plaintiff requests injunctive relief, pursuant to ORS 659A.885(1), to require defendant SNHU to offer plaintiff an on-line faculty position and to restrain defendant from engaging in existing and future violations of ORS Ch. 659A, employment laws and as the court otherwise directs.

28.

Plaintiff hired legal counsel to prosecute her claims and is entitled to reasonable attorneys' fees and costs incurred, including expert witness fees, pursuant to ORS 659A.885(1).

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Plaintiff hereby gives notice of intent to amend the complaint to seek punitive damages.

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**THIRD CLAIM FOR RELIEF**  
**Pregnancy/Sex Discrimination-Retaliation, ORS 659A.030(1)(f)**

30.

Plaintiff incorporates by reference the allegations in paragraphs 1-15 and 23 above.

31.

After filing a discrimination complaint with EEOC, BOLI and the New Hampshire Commission for Human Rights ("NHCHR"), plaintiff applied for a Faculty position, for which she was qualified, with defendant.

32.

Defendant SNHU was aware of plaintiff's filing of a discrimination complaint when it denied plaintiff an interview for a Faculty position, for which she was qualified, in retaliation for filing the discrimination complaint with EEOC, BOLI and NHCHR.

33.

In violation of ORS 659A.030(1)(f), defendant SNHU discriminated against plaintiff for opposing defendant's unlawful practices and for filing an unlawful employment practices complaint with EEOC, BOLI and NHCHR.

34.

Pursuant to ORS 659A.885(1), plaintiff Fireside requests economic damages, including back pay, front pay, lost benefits and out of pocket expenses in the amount of \$1,259,715.00, plus interest.

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Page 7– COMPLAINT

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2 Pursuant to ORS 659A.885(3)(a), plaintiff Fireside requests compensatory damages in  
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4 36.

5 Plaintiff requests injunctive relief, pursuant to ORS 659A.885(1), to require defendant  
6 SNHU to offer plaintiff an on-line faculty position and to restrain defendant from engaging in  
7 existing and future violations of ORS Ch. 659A, employment laws and as the court otherwise  
8 directs.

9 37.

10 Plaintiff hired legal counsel to prosecute her claims and is entitled to reasonable  
11 attorneys' fees and costs incurred, including expert witness fees, pursuant to ORS 659A.885(1).

12 38.

13 Plaintiff hereby gives notice of intent to amend the complaint to seek punitive damages.

14 **FOURTH CLAIM FOR RELIEF**

15 **Pregnancy/Sex Discrimination-Aiding and Abetting, ORS 659A.030(1)(g)**

16 39.

17 Plaintiff incorporates by reference the allegations in paragraphs 1-15 and 23 and 31-32  
18 above.

19 40.

20 Defendant SNHU's divisions, departments, Human Resources and agents were aware of  
21 plaintiff's applications for employment and her pending pregnancy discrimination claims against  
22 SNHU and denied her employment as a Faculty member with that knowledge.

24 ///

25 Page 8– COMPLAINT

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41.

In violation of ORS 659A.030(1)(g), defendant's agents aided, abetted, incited, and induced each other to deny plaintiff employment due to her sex and pregnancy.

42.

Pursuant to ORS 659A.885(1), plaintiff Fireside requests economic damages, including back pay, front pay, lost benefits and out of pocket expenses in the amount of \$1,259,715.00, plus interest.

43.

Pursuant to ORS 659A.885(3)(a), plaintiff Fireside requests compensatory damages in the amount of 300,000.00, plus interest, for pain and suffering.

44.

Plaintiff requests injunctive relief, pursuant to ORS 659A.885(1), to require defendant SNHU to offer plaintiff an on-line faculty position and to restrain defendant from engaging in existing and future violations of ORS Ch. 659A, employment laws and as the court otherwise directs.

45.

Plaintiff hired legal counsel to prosecute her claims and is entitled to reasonable attorneys' fees and costs incurred, including expert witness fees, pursuant to ORS 659A.885(1).

46.

Plaintiff hereby gives notice of intent to amend the complaint to seek punitive damages.

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Page 9– COMPLAINT

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**FIFTH CLAIM FOR RELIEF**  
**Discrimination/Retaliation for Bringing Civil Proceeding, ORS 659A.230**

47.

Plaintiff incorporates by reference the allegations in paragraphs 1-15 and 23, 31-32 and 40 above.

48.

In violation of ORS 659A.230, defendants discriminated and retaliated against plaintiff for promotion, compensation or other terms, conditions or privileges of employment for the reason that the plaintiff has, in good, faith brought a civil proceeding against defendants.

49.

Pursuant to ORS 659A.885(1), plaintiff Fireside requests economic damages, including back pay, front pay, lost benefits and out of pocket expenses in the amount of \$1,259,715.00, plus interest.

50.

Pursuant to ORS 659A.885(3)(a), plaintiff Fireside requests compensatory damages in the amount of \$300,000.00, plus interest, for pain and suffering.

51.

Plaintiff requests injunctive relief, pursuant to ORS 659A.885(1), to require defendant SNHU to offer plaintiff an on-line faculty position and to restrain defendant from engaging in existing and future violations of ORS Ch. 659A, employment laws and as the court otherwise directs.

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Page 10– COMPLAINT

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52.

Plaintiff hired legal counsel to prosecute her claims and is entitled to reasonable attorneys' fees and costs incurred, including expert witness fees, pursuant to ORS 659A.885(1).

53.

Plaintiff hereby gives notice of intent to amend the complaint to seek punitive damages.

**WHEREFORE**, plaintiff prays for judgment as follows:

1. Assume jurisdiction over each of the causes set forth herein.
2. Grant a permanent injunction enjoining defendant, its owners, officers, management personnel, employees, agents, successors, and assigns, and all persons in active concert or participation with defendant, from violating employment discrimination, retaliation and whistleblower laws, requiring defendant SNHU to offer plaintiff a full-time on-line faculty position, and on such terms as the court may direct.
3. Order defendant to comply with ORS Chapters 659A and federal pregnancy discrimination protections, employment and whistleblower laws. Further order defendants to participate in employment discrimination, retaliation and whistleblower education, order defendants to create of policies and practices for hiring committees which conform to federal and state anti-discrimination laws and other remedial measures.
4. Order defendant to make plaintiff Melissa Fireside whole by compensating her for economic damages for back pay, front pay, future lost earnings, unpaid medical expenses and other out-of-pocket expenses, in an amount of \$1,259,715.00, due to pregnancy discrimination and retaliation and whistleblower violations.

Page 11– **COMPLAINT**

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4           6.       Attorney fees, prevailing party fees, expenses, disbursements, expert witness fees,  
5       pursuant to ORS 659A.885(1).

7. Any other relief the Court deems appropriate.

DATED this 2nd day of January, 2017.

**DIANE S. SYKES, ATTORNEY AT LAW, P.C.**

0 s/Diane S. Sykes  
Diane S. Sykes, OSB No. 980990  
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Of Attorneys for Plaintiff Melissa Fireside

Trial Attorney: Diane S. Sykes, OSB No. 980990

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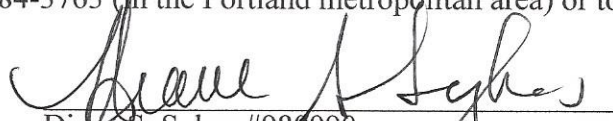
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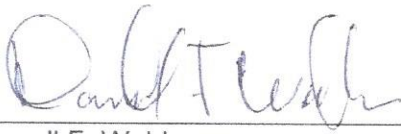
  
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## RETURN OF SERVICE OF SUMMONS

I Darrell F. Webber being a person authorized to make service in the State of New Hampshire, hereby certify and return, that on the day of January 13, 2017 at 3:45 pm, I served this Summons together with the complaint on Paul J. LeBlanc, Southern New Hampshire University at 1230 Elm Street, Manchester, NH, by giving a copy to Evan Lowry, Staff Attorney for General Council of the University and a person identified as authorised to accept on be half of the University, in the matter of Melissa Fireside vs. College For America, Southern New Hampshire University, a New Hampshire Non-profit educational institution, Case # 17CV00111, before the Circuit Court of the State of Oregon, County of Clackamas.



Darrell F. Webber



January 17, 2017

**CERTIFICATE OF SERVICE**

I hereby certify that counsel for plaintiff served a **SUMMONS AND PROOF OF SERVICE ON DEFENDANT SOUTHERN NEW HAMPSHIRE UNIVERSITY (SNHU)** on the following:

Evan M. Lowry  
Staff Attorney  
Office of General Counsel and Compliance  
Southern New Hampshire University  
2500 North River Road  
Manchester, NH 03106-1045

By mailing in a sealed envelope with postage prepaid thereon, at the above address, and sent by first class mail, from Portland, Oregon, on the date set forth below.

Dated this 23rd day of January, 2017.

**DIANE S. SYKES, ATTORNEY AT LAW, P.C.**

/s/ Diane S. Sykes

Diane S. Sykes, OSB No. 980990

Of Attorneys for Plaintiff Melissa Fireside



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Plaintiff hereby gives notice of intent to amend the complaint to seek punitive damages.

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Plaintiff requests injunctive relief, pursuant to ORS 659A.885(1), to require defendant SNHU to offer plaintiff an on-line faculty position and to restrain defendant from engaging in existing and future violations of ORS Ch. 659A, employment laws and as the court otherwise directs.

28.

Plaintiff hired legal counsel to prosecute her claims and is entitled to reasonable attorneys' fees and costs incurred, including expert witness fees, pursuant to ORS 659A.885(1).

29.

Plaintiff hereby gives notice of intent to amend the complaint to seek punitive damages.

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Page 6– **COMPLAINT**

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**THIRD CLAIM FOR RELIEF**  
**Pregnancy/Sex Discrimination-Retaliation, ORS 659A.030(1)(f)**

30.

Plaintiff incorporates by reference the allegations in paragraphs 1-15 and 23 above.

31.

After filing a discrimination complaint with EEOC, BOLI and the New Hampshire Commission for Human Rights (“NHCHR”), plaintiff applied for a Faculty position, for which she was qualified, with defendant.

32.

Defendant SNHU was aware of plaintiff’s filing of a discrimination complaint when it denied plaintiff an interview for a Faculty position, for which she was qualified, in retaliation for filing the discrimination complaint with EEOC, BOLI and NHCHR.

33.

In violation of ORS 659A.030(1)(f), defendant SNHU discriminated against plaintiff for opposing defendant’s unlawful practices and for filing an unlawful employment practices complaint with EEOC, BOLI and NHCHR.

34.

Pursuant to ORS 659A.885(1), plaintiff Fireside requests economic damages, including back pay, front pay, lost benefits and out of pocket expenses in the amount of \$1,259,715.00, plus interest.

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Page 7– **COMPLAINT**

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1 35.

2 Pursuant to ORS 659A.885(3)(a), plaintiff Fireside requests compensatory damages in  
3 the amount of \$300,000.00, plus interest, for pain and suffering.

4 36.

5 Plaintiff requests injunctive relief, pursuant to ORS 659A.885(1), to require defendant  
6 SNHU to offer plaintiff an on-line faculty position and to restrain defendant from engaging in  
7 existing and future violations of ORS Ch. 659A, employment laws and as the court otherwise  
8 directs.

9 37.

10 Plaintiff hired legal counsel to prosecute her claims and is entitled to reasonable  
11 attorneys' fees and costs incurred, including expert witness fees, pursuant to ORS 659A.885(1).

12 38.

13 Plaintiff hereby gives notice of intent to amend the complaint to seek punitive damages.

14 **FOURTH CLAIM FOR RELIEF**

15 **Pregnancy/Sex Discrimination-Aiding and Abetting, ORS 659A.030(1)(g)**

16 39.

17 Plaintiff incorporates by reference the allegations in paragraphs 1-15 and 23 and 31-32  
18 above.

19 40.

20 Defendant SNHU's divisions, departments, Human Resources and agents were aware of  
21 plaintiff's applications for employment and her pending pregnancy discrimination claims against  
22 SNHU and denied her employment as a Faculty member with that knowledge.

24 ///

25 Page 8– **COMPLAINT**

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41.

In violation of ORS 659A.030(1)(g), defendant's agents aided, abetted, incited, and induced each other to deny plaintiff employment due to her sex and pregnancy.

42.

Pursuant to ORS 659A.885(1), plaintiff Fireside requests economic damages, including back pay, front pay, lost benefits and out of pocket expenses in the amount of \$1,259,715.00, plus interest.

43.

Pursuant to ORS 659A.885(3)(a), plaintiff Fireside requests compensatory damages in the amount of 300,000.00, plus interest, for pain and suffering.

44.

Plaintiff requests injunctive relief, pursuant to ORS 659A.885(1), to require defendant SNHU to offer plaintiff an on-line faculty position and to restrain defendant from engaging in existing and future violations of ORS Ch. 659A, employment laws and as the court otherwise directs.

45.

Plaintiff hired legal counsel to prosecute her claims and is entitled to reasonable attorneys' fees and costs incurred, including expert witness fees, pursuant to ORS 659A.885(1).

46.

Plaintiff hereby gives notice of intent to amend the complaint to seek punitive damages.

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Page 9– **COMPLAINT**

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**FIFTH CLAIM FOR RELIEF**

**Discrimination/Retaliation for Bringing Civil Proceeding, ORS 659A.230**

47.

Plaintiff incorporates by reference the allegations in paragraphs 1-15 and 23, 31-32 and 40 above.

48.

In violation of ORS 659A.230, defendants discriminated and retaliated against plaintiff for promotion, compensation or other terms, conditions or privileges of employment for the reason that the plaintiff has, in good, faith brought a civil proceeding against defendants.

49.

Pursuant to ORS 659A.885(1), plaintiff Fireside requests economic damages, including back pay, front pay, lost benefits and out of pocket expenses in the amount of \$1,259,715.00, plus interest.

50.

Pursuant to ORS 659A.885(3)(a), plaintiff Fireside requests compensatory damages in the amount of \$300,000.00, plus interest, for pain and suffering.

51.

Plaintiff requests injunctive relief, pursuant to ORS 659A.885(1), to require defendant SNHU to offer plaintiff an on-line faculty position and to restrain defendant from engaging in existing and future violations of ORS Ch. 659A, employment laws and as the court otherwise directs.

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Page 10– **COMPLAINT**

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52.

Plaintiff hired legal counsel to prosecute her claims and is entitled to reasonable attorneys' fees and costs incurred, including expert witness fees, pursuant to ORS 659A.885(1).

53.

Plaintiff hereby gives notice of intent to amend the complaint to seek punitive damages.

**WHEREFORE**, plaintiff prays for judgment as follows:

1. Assume jurisdiction over each of the causes set forth herein.

2. Grant a permanent injunction enjoining defendant, its owners, officers, management personnel, employees, agents, successors, and assigns, and all persons in active concert or participation with defendant, from violating employment discrimination, retaliation and whistleblower laws, requiring defendant SNHU to offer plaintiff a full-time on-line faculty position, and on such terms as the court may direct.

3. Order defendant to comply with ORS Chapters 659A and federal pregnancy discrimination protections, employment and whistleblower laws. Further order defendants to participate in employment discrimination, retaliation and whistleblower education, order defendants to create of policies and practices for hiring committees which conform to federal and state anti-discrimination laws and other remedial measures.

4. Order defendant to make plaintiff Melissa Fireside whole by compensating her for economic damages for back pay, front pay, future lost earnings, unpaid medical expenses and other out-of-pocket expenses, in an amount of \$1,259,715.00, due to pregnancy discrimination and retaliation and whistleblower violations.

Page 11– **COMPLAINT**

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1           5.       Order defendant to make plaintiff Melissa Fireside whole by compensating her for  
2 non-economic damages of \$300,000.00 for emotional pain and suffering, humiliation and  
3 anxiety.

4           6.       Attorney fees, prevailing party fees, expenses, disbursements, expert witness fees,  
5 pursuant to ORS 659A.885(1).

6           7.       Any other relief the Court deems appropriate.

7  
8       DATED this 2nd day of January, 2017.

9                               **DIANE S. SYKES, ATTORNEY AT LAW, P.C.**

10                              s/Diane S. Sykes

Diane S. Sykes, OSB No. 980990

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Of Attorneys for Plaintiff Melissa Fireside

13                              Trial Attorney: Diane S. Sykes, OSB No. 980990